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TO:

FROM:

Name: Mail Stop AMENDMENT
Group Art Unit 3764/Examiner Michael Brown

Name: Thomas H. Martin, Esq.

Firm: U.S. Patent & Trademark Office

Phone No.: 330-877-2277

Fax No.: 571-273-8300

No. of Pages (including this): 5

Subject: U.S. Patent Application No. 10/740,747

Date: April 4, 2006

Gary Karlin Michelson

Filed: December 19, 2003

Confirmation Copy to Follow: NO

IMPLANT WITH LOCKING THREAD

CONFIGURATION FOR INSERTION

BETWEEN BONE STRUCTURES (as amended)

Attorney Docket No. 102.0001-12000

Customer No. 22882

Confirmation No.: 4978

Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Transmittal Form (in duplicate) and Reply to Restriction Requirement are being facsimile transmitted to the U.S. Patent and Trademark Office on April 4, 2006.


Sandra L. Blackmon

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FORM PTO-1083

PATENT
Attorney Docket No.: 102.0001-12000
Customer Number 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary Karlin Michelson

Serial No: 10/740,747

Filed: December 19, 2003

For: IMPLANT WITH LOCKING THREAD
CONFIGURATION FOR INSERTION
BETWEEN BONE STRUCTURES (as
amended)

Confirmation No.: 4978

Group Art Unit: 3764

Examiner: Michael brown

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Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a Reply to the Office Action of March 31, 2006 in the above-identified application.

- ☒ No additional fee is required.
- ☐ Applicant hereby requests a ***-month extension of time to respond to the above office action.
- ☐ The total amount of \$____ to cover the above fees is to be charged to Deposit Account No. 50-3726.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-3726. **A copy of this sheet is enclosed.**
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,
MARTIN & FERRARO LLP

Date: April 4, 2006

By: Thomas H. Martin
Registration No. 34,3831557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: 330-877-0700
Facsimile: 330-877-2030

FORM PTO-1083

PATENT
Attorney Docket No.: 102.0001-12000
Customer Number 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary Karlin Michelson

Serial No: 10/740,747

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- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,
MARTIN & FERRARO LLP

Date: April 4, 2006

By: 
Thomas H. Martin
Registration No. 34,383

1557 Lake O'Pines Street, NE
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Telephone: 330-877-0700
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PATENT
Attorney Docket No. 102.0001-12000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Confirmation No.: 4978
Gary Karlin Michelson)
Serial No.: 10/740,747) Group Art Unit: 3764
Filed: December 19, 2003)
For: IMPLANT WITH LOCKING THREAD) Examiner: M. Brown
CONFIGURATION FOR INSERTION)
BETWEEN BONE STRUCTURES)
(as amended))

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Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY TO RESTRICTION REQUIREMENT

In response to a restriction requirement dated March 31, 2006, Applicant provisionally elects to prosecute claims 19-31 directed to Group II, with traverse.

Applicant respectfully traverses the Examiner's contention that "currently, no claims generic." Independent claim 19 (Group II) recites an implant with "at least one surface projection" which is "configured to resist backward rotation of said body once said body has been inserted between the portions of bone." Independent claim 1 (Group I) recites a device with "a helical thread" including "at least one deviation adapted to resist backward rotation of said elongated body once it is inserted between the boney structures." Applicant submits that the subject matter of claim 1 is a species of the generic subject matter of claim 19 because a "thread" is a specific type of "surface projection." Accordingly, Applicant respectfully requests the Examiner to designate independent claim 19 as a generic claim.

Applicant submits that the Examiner's rationale to support the Restriction Requirement is insufficient. The Examiner states that "[t]he species are independent or distinct because the search required for Group II isn't required for Group I." (Restriction

Reply to Restriction Requirement 4-4-06.doc

Application No. 10/740,747
Reply to Restriction Requirement dated April 4, 2006
Reply to Restriction Requirement of March 31, 2006

Requirement, page 2, paragraph 1). If Applicant were to choose Group I, the field of search would be the same. According to the MPEP, where "the classification and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions." (MPEP § 808.02). Accordingly, Applicant submits that the Examiner's rationale for supporting the present Restriction Requirement is insufficient and respectfully requests the withdrawal of the present Restriction Requirement.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-3726.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: April 4, 2006

By: Thomas H. Martin
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Registration No. 34,383

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